

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

PEARSON EDUCATION, INC. and
MCGRAW-HILL GLOBAL EDUCATION
HOLDINGS, LLC,

Plaintiffs,

v.

C & N LOGISTICS, INC., RUSSELL TODD
WHITE, and SHAWN CHADWELL,

Defendants.

Case No. 3:18-cv-00438

Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Barbara D. Holmes

PLAINTIFFS' MOTION TO DISMISS DEFENDANTS' COUNTERCLAIMS

Plaintiffs Pearson Education, Inc. and McGraw-Hill Global Education Holdings, LLC (collectively, "Plaintiffs"), by and through undersigned counsel and pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby move for the entry of an order dismissing each of the counterclaims raised by Defendants C&N Logistics, Inc. ("C&N"), Russell Todd White ("White"), and Shawn Chadwell ("Chadwell") (collectively, "Defendants") with prejudice.

Each of Defendants' counterclaims should be dismissed for failing to state a plausible claim upon which relief can be granted. Defendants' First and Second Counterclaims for declaratory judgment are repetitious and unnecessary, as they merely state mirror issues that Plaintiffs have already presented to this Court—namely, whether Defendants are liable for infringing Plaintiffs' trademarks and copyrights through the importation and distribution of

counterfeit copies of Plaintiffs' textbooks. Under Sixth Circuit precedent, such "mirror image" counterclaims should be dismissed, because they serve no useful purpose and would be rendered moot by the adjudication of Plaintiffs' claims.

Defendants' Third and Fourth Counterclaims for tortious interference with contract and with business relations should be dismissed because, even construing the allegations in the light most favorable to Defendants, such allegations fail to establish all necessary elements of each claim. Defendants' tortious interference claims are also subject to dismissal under the *Noerr-Pennington* doctrine, as Plaintiffs' conduct about which Defendants complain was part and parcel to their efforts to protect their intellectual property rights and seek redress in court.

For the foregoing reasons, Plaintiffs respectfully request that the Court dismiss Defendants' counterclaims with prejudice.

Dated: July 16, 2018

Respectfully submitted,

By: s/ Michael A. Johnson

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and McGraw-Hill Global Education Holdings,
LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2018, a true and exact copy of the foregoing Motion has been served on Defendants C & N Logistics, Inc. and Todd White via ECF and on Defendant Shawn Chadwell via email per agreement of the parties.

s/ Michael A. Johnson

Michael A. Johnson